THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19746 of 2005

08.9.2005

Between:

B.S.Rajeswar Chari, S/o.Late B.Sattaiah, Business,

Begumpet Main Road, Syamlal Buildings, Secunderabad.

… Petitioner

AND

1. The Assistant City Planner, Town Planning Section,

Municipal Corporation of Hyderabad, Secunderabad Zone,

Hyderabad and another.

… Respondents

ORDER:

The petitioner claims to be the joint owner of premises bearing Nos.1-11-248/1 and 1-11-249/1, Syamala Building, Begumpet Main Road, Secunderabad. The Municipal Corporation of Hyderabad (MCH) proposed to widen the road from existing width to 150 feet. In the process, the petitioner's land to the extent of 261.5 Sq. yards is getting affected. Therefore, the Commissioner of MCH, the second respondent herein, addressed a letter dated 14.6.2005 requesting the petitioner to give his consent in the proforma to hand over advance possession of the affected area in road widening. The petitioner was also informed that he would be paid compensation for the structures that might be affected and he would also be given the other benefits in accordance with G.O.Ms.No.483 dated 24.8.1998. The petitioner did not give his consent. It is alleged that on 01.9.2005, the first respondent and other officials came to the petitioner's premises and asked to hand over the land. It is also alleged that the officials threatened to demolish the structures. Therefore, the petitioner filed the present writ petition.

Whenever the MCH requires any land for any purpose including for widening the road, it has two options. It can negotiate with the land owner under Section 145 of Hyderabad Municipal Corporation Act, 1955 (the Act, for brevity) and take the land for road widening. In case, the owner of the land owner is not willing to give his/her consent, the MCH is required to take necessary action for acquisition of land in accordance with the provisions of Land Acquisition Act, 1894. That is the purport of Section 147 of the Act. Now that the petitioner is not willing to give his consent and hand over possession of the land, the MCH has to proceed in accordance with

Section 147 of the Act for acquiring the land. Till then, the petitioner shall not be denied his right to enjoy his property nor MCH can resort to any coercive action for demolishing the structures/taking possession.

The writ petition, with the above observations and directions, is disposed of. No costs.

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(**V.V.S.RAO,J**)

September 08, 2005.

NOTE:

Issue order copy by WIRE at

Party's cost.

(B/o)

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